

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

LATASHA HANDY, ET AL.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:16-cv-370-WHB-JCG

MADISON COUNTY, MISSISSIPPI; ET AL.

DEFENDANTS

ORDER

This cause is before the Court on a Motion seeking to have United States Bankruptcy Trustee Derek Henderson (“Henderson”) substituted as the real party in interest as to the claims alleged by debtor, Latasha Handy. Motions concerning a real party in interest are governed by Rule 17(a) of the Federal Rules of Civil Procedure, which provides that “[a]n action must be prosecuted in the name of the real party in interest,” and that:

The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joinder, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

The Court previously found that Henderson is the real party in interest as to any claim alleged by Latasha Handy in this case that is property of her bankruptcy estate(s). *See* Opinion and Order [Docket No. 155]. As Henderson is the real party in interest with respect to any of Latasha Handy’s claims that are property of her bankruptcy estate(s), the Court finds the Motion to Substitute Henderson as the real

party in interest as to those claims should be granted. Latasha Handy will continue as the real party in interest with respect to the claims she alleges on behalf of the other heirs at law/wrongful death beneficiaries of Willie Handy, Jr., because any claims bought by her in a representative capacity would not be property of her bankruptcy estate(s). Finally, to the extent the Motion to Substitute requests leave to file an amended complaint, it will be denied as unnecessary.

IT IS THEREFORE ORDERED that the Motion to Substitute Real Party in Interest [Docket No. 158] is hereby granted to the extent United States Derek Henderson is hereby substituted as the real party in interest as to any claim that is property of Latasha Handy's bankruptcy estate(s).

IT IS FURTHER ORDERED that the plaintiffs in this case should be now identified as follows:

United States Bankruptcy Trustee Derek H. Henderson, on behalf of Latasha Handy, Individually and as an Heir at Law/Wrongful Death Beneficiary of Willie Handy, Jr.; Latasha Handy on behalf of all other Heirs at Law/Wrongful Death Beneficiaries of Willie Handy, Jr.

IT IS FURTHER ORDERED that the Motion to Substitute, to the extent it seeks leave to file an amended complaint, is hereby denied.

SO ORDERED AND ADJUDGED this the 21st day of June, 2018.

s/ John C. Gargiulo

JOHN C. GARGIULO
UNITED STATES MAGISTRATE JUDGE